

REMARKS

This responds to the Office Action mailed on March 19, 2008.

Claims 133 and 139 are amended, claims 1-131, 136, and 140-167 are cancelled, and claims 170-220 are added; as a result, claims 132-134, 137-139, and 168-220 are pending in this application.

Claim 133 was amended to correct its antecedent basis. Claim 139 was amended to depend upon claim 137 instead of claim 136. Claim 136 was cancelled and re-entered as new claim 170, as suggested by the Examiner. Additionally, claims 140-142 were cancelled and re-entered as new claims 170-172. New claims 173-180 are supported by original claims 135, 137, and 140-142. Support for new claims 181-189 can be found at least in original claim 137 and Figure 2, and support for new claims 190-220 can be found at least in original claims 116-126 and 130-131 and Figure 2, as well as throughout the specification. No new matter has been added.

Obviousness-Type Double Patenting Rejection

Claims 132-134 and 136-142 were rejected under the judicially created doctrine of double patenting over claims 1-24, 68-71 and 91 of copending application Serial No. 11/444,145. Applicant respectfully traverses the rejection.

Applicant notes that the "series code" of copending application Serial No. 11/444,145 was incorrectly written as "10", as opposed to "11", on page 6 of the Office Action dated October 11, 2007. The correct serial number is found on page 7 of that Office Action but is incorrectly recited in the Office Action response of January 10, 2008 (page 33) and the Office Action dated March 19, 2008 (page 2). Because neither the present application nor copending application Serial No. 11/444,145 have been allowed, a terminal disclaimer is not required at this time. Applicant further notes that because neither application has been allowed or has issued, it is believed that the rejection should be a provisional rejection. Accordingly, if a terminal disclaimer is required it can be requested by the Examiner before issuance of the latter of either the present application or the '145 application. Withdrawal of the rejection is respectfully requested.

Claim Objection

Claim 136 was objected to because it depended on a subsequent claim. The Examiner suggested that claim 136, which depended upon claim 169, be cancelled and added at the end of the claims. The cancellation of claim 136 and the addition of claim 170 is believed to obviate the objection to claim 136.

Request for Rejoinder

In the response filed July 24, 2006, Applicant requested rejoinder of the withdrawn claims upon a notice of allowable subject matter for the claims under examination. Applicant believes that claims 132-134, 137-139, and 168-189 are now in condition for allowance. Accordingly, the Examiner is respectfully requested to rejoin the subject matter of original claims 116-126 and 130-131 ("kit" claims), which now correspond to claims 190-220. The subject matter of original claims 116-126 and 130-131 that is directed to compounds (D-luciferin derivatives) has been amended in a manner corresponding to the amendments to the elected compound claims (see, e.g., compound claim 132 and kit claim 190, and compound claim 169 and kit claim 199).

CONCLUSION


Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 359-3270 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

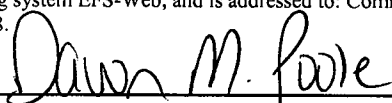
Respectfully submitted,

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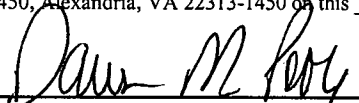
Date 5/19/2008

By 
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Reg. No. 57,111

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Name



Signature